

Response to Official Action
Application No. 10/761,975
Page 4

Amendments to the Drawings:

No amendments are made to the Drawings herein.

REMARKS

No amendments are made herein. Claims 1-24 are currently pending.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) as not including all reference characters mentioned in the description. Specifically, the Examiner has expressed concern with respect to reference character "7". However, Applicant notes that reference character "7" is used at least in Paragraph [0034] of the specification as originally filed, and therefore asks that the Examiner reconsider this objection.

The Examiner has maintained the rejection of Claims 1, 4-11, 14-17 and 19-22 under 35 U.S.C. §102(b) as being anticipated by Drapeau et al. (U.S. Patent No. 4,682,010). Applicant respectfully asks the Examiner to reconsider these rejections in view of the below Remarks.

The Examiner has essentially disregarded many of Applicant's arguments concerning Drapeau et al. by stating a belief that the only way Applicant has distinguished Drapeau et al. is by pointing to an intended use of the claimed instrument. Applicant, however, respectfully submits that such is not the case. Claims 1 and 14, the only independent claims, both require positively recited structural elements and relationships therebetween that are not disclosed, taught or suggested by this cited reference.

For example, both Claims 1 and 14 require an insufflation device. The Examiner has not even attempted to make a prima facie showing that Drapeau et al. discloses or teaches this required structural element, and indeed can not do so, because Drapeau et al. does not even hint at such an element. Drapeau et al., as pointed out in Applicant's previous filed response, relates to an in-line heater for a

nebulizer, ventilator or respirator system. Such systems *simply do not include an insufflation device* as the term would be understood by one skilled in the art.

Applicant respectfully submits that it is improper for the Examiner to simply ignore this required structural element of Claims 1 and 14.

The Examiner has also maintained the rejection of Claims 1, 4-9, 12, 14-17 and 19, 20 and 23 under 35 U.S.C. §102(e) as being anticipated by Semm (U.S. Patent No. 5,362,310). Applicant respectfully asks the Examiner to reconsider these rejections in view of the below Remarks.

As Applicant pointed out in the previously filed Response, Claims 1 and 14, all independent claims, require (i) a first instrument part for introduction into a body cavity, (ii) a second instrument part connected to the first instrument part, (iii) a tube connected to the second instrument part, (iv) an insufflation device connected to the tube, and (v) a heating element disposed in either the first instrument part or the second instrument part. Thus, all claims of the present invention require that the heating element be disposed in an instrument part that is separated from the insufflation device by a tube.

Again, the Examiner has ignored these structural limitations, and has failed to even attempt to make a prima facie showing that all elements are disclosed, taught or suggested in any way by Semm. While Semm may be considered as disclosing a first instrument part (i.e., Vetess needle 19) for introduction into a body cavity, a second instrument part (i.e., torsional coupling 18) connected to the first instrument part, a tube 10 connected to the second instrument part, an insufflation device 8 connected to the tube, and a heating element 11, Semm specifically discloses that the heating element 11 is disposed within the tube 10, **not** within the first instrument part or the second instrument part, as is required by

all claims, as amended. Moreover, applicant respectfully submits that the tube 10 of Semm could not be considered as being the claimed second instrument part, because all claims require that there be a tube disposed between the second instrument part and the insufflation device, and if the tube 10 of Semm were considered to be the second instrument part, there would be no such intermediary tube. Again, respectfully submits that it is improper for the Examiner to simply ignore the required structural elements of Claims 1 and 14.

In view of the fact that Claims 1 and 14 are in condition for allowance, Applicant respectfully submits that withdrawn Claims 2, 3, 13, 18 and 24, which depend, either directly or indirectly, from either Claim 1 or Claim 14, should be entitled to consideration and are also in condition for allowance.

For the foregoing reasons, Applicant respectfully submits that all pending claims, namely Claims 1-24, are patentable over the references of record, and earnestly solicits allowance of the same.

Respectfully submitted,

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